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**Dental Clinics North
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**Hospice of Northwest
Michigan**
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www.nwhealth.org



December 4, 2018
PROPOSED HB 5752 AND 5753

My name is Scott Kendzierski, I am a Michigan native and have been a public health professional for over 25 years, working for three health districts in Michigan. I have been able, through my career, to work with a variety of local sanitary codes and other state and federal wastewater regulations. I take pride in the work that local health departments do across our great State and am always surprised by the empty comment, "We are the only state in the nation without a Statewide Code" and its use to promote the perception that local codes are inadequate and that this "problem" needs to be addressed through sweeping regulation. Our State is in its seventh cycle of public health accreditation (Michigan Local Public Health Accreditation Program), which includes Section VI-Onsite Wastewater Treatment Management. This process evaluates the authority of our codes and that we are applying wastewater principles appropriately and meeting established minimum program requirements. I have personally developed and passed two district sanitary codes since I became the Environmental Health Director for the Health Department of Northwest Michigan and understand the need to develop dynamic codes that continue to adapt to new innovations and apply best management practices, all while prioritizing public health and environmental protection. I also understand the authority granted under the Public Health Code to Local Health Departments to establish regulations to do just that and the importance of local control.

The recently proposed House Bills (HB5752 and 5753) have been developed by a committee that has largely excluded input from the Environmental Health Professionals working to provide responsible wastewater solutions for 45 Local Health Departments throughout the State. These well-educated and dedicated individuals, more than any other group, understand and have knowledge in wastewater system management including; site suitability determination, wastewater system design, permitting, installation, inspection, operation, complaint response, development of best practices and evaluation of new technologies. Why would these individuals be excluded from a meaningful process that aims to develop a code that will affect them and your constituents more significantly than any other group?

I am also the Chairman of the Northern Michigan Environmental Health Director's Committee (NMEHD), representing nine Local Health Departments in Northern Michigan, and have lead our committee to evaluate HB5752/HB5753 and its potential impacts on Local Health Departments across our region. As with any group, there are many opinions about a piece of legislation that will affect their profession. But what we all agreed with, is that these House Bills, as written, are flawed and represent a significant deterioration of strong wastewater

management programs through preemption of effective evaluation programs, loss of local control by the establishment of the Technical Advisory Committee and the overall lack of adequate funding to execute the mandates of the legislation.

I have worked with many professional stakeholders to build consensus for many initiatives in our district and regionally, including the development of regulations, and am discouraged professionally and with a bill development process that neglects its largest stakeholders from the process. I have seen strong opposition to these House Bills, in whole or in part, from a variety of stakeholders, including; the Health Department of Northwest Michigan (HDNW) Board of Health, the Michigan Association of Environmental Health Administrators (MALEHA), the Northern Michigan Environmental Health Directors Committee (NMEHD), the Michigan Association of Counties (MAC), the Michigan Township Association (MTA), Antrim County Board of Commissioners, Milton Township, Tip of the Mitt (TOM) Watershed Council, The Watershed Center of Grand Traverse Bay, Wastewater Education, and others.

I have attached some of the letters, position statements and resolutions that have been provided to me through my various relationships with the local entities. If you have any questions for me, feel free to contact me at your earliest convenience.

Please do not vote for these House Bills.

Respectfully,



Scott Kendzierski, REHS, MS
Director of Environmental Health Services

cc. House Local Government Committee

Health Department of Northwest Michigan

RESOLUTION

OPPOSING HOUSE BILL 5752 and 5753

WHEREAS, House Bills 5752 and 5753 would add Part 128 to the Public Health Code and establish state and local standards for onsite wastewater treatment systems which would require the Michigan Department of Environmental Quality to develop a statewide code to govern the installation, operation and inspection of septic systems;

WHEREAS, The Amendatory Act restricts and removes local controls and changes existing regulations and guidelines that have effectively been enforced by the Health Department of Northwest Michigan;

WHEREAS, The Amendatory Act would add additional mandates that would increase the amount of agency staff time and expenses that the Health Department of Northwest Michigan would incur under the new Act without adequate funding from the state;

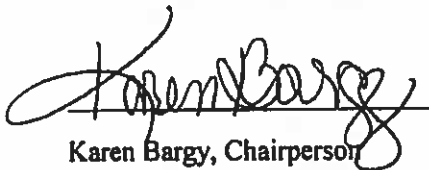
WHEREAS, The Amendatory Act would compromise and threaten existing regulations and grant the Michigan Department of Environmental Quality authority to approve local sanitary codes, undermining the duties of local health departments, under the Public Health Code, to implement and enforce laws;

WHEREAS, The Michigan Department of Environmental Quality lacks the necessary budget and staffing levels to meet the mandates of the Amendatory Act, which will place an additional financial burden on local authorities;

WHEREAS, The creation of the State Technical Advisory Committee, under the Act, would take away and replace local control of the design, permitting, inspection and management of onsite wastewater treatment and disposal facilities and greatly limit local public health input into the rulemaking process;

WHEREAS, The Amendatory Act fails to adequately address funding for distressed homeowners and vacated properties with onsite wastewater treatment and disposal facilities;

THEREFORE BE IT RESOLVED, That the Health Department of Northwest Michigan Board of Commissioners oppose HB 5752 and HB 5753 and requests State Legislators to oppose the legislation.

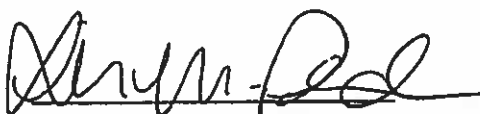


Karen Bargy, Chairperson

Antrim County Commissioner

12/04/2018

Date



Lisa Peacock, Health Officer

12/4/18

Date

Board of Health Vote- All yeas

Nancy Ferguson, Vice Chair

Charlevoix County Commissioner

Melissa Zelenak, Antrim County Commissioner

Shirley Roloff, Charlevoix County Commissioner

Betsy White, Emmet County Commissioner

Jonathan Scheel, Emmet County Commissioner

Duane Switalski, Otsego County Commissioner

>page 2<

RESOLUTION

OPPOSING HOUSE BILL 5752 and 5753

Health Department of Northwest Michigan



HEALTH DEPARTMENT

of Northwest Michigan

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The Health Department of Northwest Michigan does not support the proposed legislation to establish a statewide sanitary code through the following House Bills presented to the Michigan legislature on March 22, 2018.

HB 5752 of 2017

Environmental protection; sewage; onsite wastewater treatment systems; regulate, and provide for assessments and evaluations. Amends 1978 PA 368 (MCL 333.1101 - 333.25211) by adding pt. 128. TIE BAR WITH: HB 5753'17
Last Action: 4/10/2018 bill electronically reproduced 03/22/2018

HB 5753 of 2017

Environmental protection; sewage; onsite wastewater treatment systems; regulate and provide for assessments and evaluations. Amends sec. 12752 of 1978 PA 368 (MCL 333.12752) & adds secs. 12802, 12808 & 12809. TIE BAR WITH: HB 5752'17
Last Action: 4/10/2018 bill electronically reproduced 03/22/2018

Background

The main argument for adopting this legislation is that Michigan is the "only state without a statewide code". This argument suggests that the system in Michigan is inadequate at protecting surface and groundwater when compared to a statewide code. However, there are not data available to support this conclusion. Michigan is a unique state with varying soil conditions and each local jurisdiction has developed codes to design and permit sewage disposal systems based on the need of their community. There are no data available to show that a statewide code provides greater protection than the customized codes that are based on local geology.

Various groups have expressed concerns with the negative impact onsite sewage disposal systems have on Michigan surface and groundwater. The main study utilized to support these claims has questionable methodology and limited data to reach this conclusion. There are no studies available that compare the effectiveness of onsite sewage disposal systems in the states with a statewide sanitary code versus local sanitary codes. Without this comparison, it is not possible to conclude that a statewide sanitary code is more effective.

Negative Impacts to our District

- There is no credible proof that there is a profound need for such legislation, and the potential negative impacts to local constituents are significant. It is likely that the administrative rules would compromise the strong sanitary code in place, which could be jeopardized by lower standards, and it would force the elimination of successful real estate inspection programs implemented between the Health Department and local units of government.
- The program eliminates the rights of local jurisdictions to have a real estate transfer evaluation program. This eliminates the ability to inspect systems for

have been extremely successful in educating buyers and sellers about these systems and have identified and corrected faulty systems.

- The ability to establish regulations which are customized to local needs and geology and which protect the public and the environment would be taken from local jurisdictions. The Department of Environmental Quality (DEQ) would be the authority that would develop all onsite sewage system requirements throughout the state.

Questionable Validity of Supporting Data

- Decades of successful local control of this program is being discredited by a few groups based on a single study. The often-referenced study has been used to mislead the public into thinking that Michigan has a serious and widespread problem with onsite wastewater systems. This conclusion is false.
- Concerns regarding groundwater and wastewater contamination due to onsite systems has been the main focus for development of new legislation. Local jurisdictions are significantly invested in protecting local resources and the community. The local codes in place have been developed by well trained, degreed, and conscientious public health professionals and approved by elected members of the community who are all tasked with protecting the resources and people in their jurisdiction.
- A recurring argument is that Michigan is the "only state without a statewide code." Michigan is unique and has developed local codes to address the unique geological conditions of the area and community needs. No study has been completed to demonstrate local governance is an inferior model to statewide legislation.

Development & Funding Concerns

- The short timeframe of this legislation has not provided local jurisdictions the ability to provide input or response. The legislation has been in development for months with very little input from local jurisdictions. Drafts of the legislation are often not provided, or what is shared is not the current version. The legislation is now being expedited through the approval process without adequate time for thorough review and response by local jurisdictions.
- The development of this bill package has occurred without transparency. There are no published meeting minutes for review and little ability to provide feedback on a piece of legislation that will have such a significant impact to the environment and the citizens of Michigan. The meetings that have been held on this legislation have occurred with a select group of advisors and has not included those in opposition to the proposal. This has not allowed for careful consideration of divergent points of view and/or anticipated outcomes.
- Local public health professionals have not been adequately represented in the process. There is no other group in the state that has more involvement or knowledge of onsite sewage disposal systems than the local public health departments. These are the professionals responsible for system permitting,

NMEHD Position Statement on SWC - March 22, 2018

**Bill proposal to amend 1994 PA 451 "Natural Resources and Environmental Protection Act"
(MCL 324.101 to 324.90106) by adding part 50**

The Northern Michigan Environmental Health Directors (NMEHD) formed a Position Statement in response to the proposed Legislation by Representative Lower, et al, and as endorsed by MDEQ. Therefore, the following is our position relative to this Legislation:

As Environmental Health Directors, with a combined 84 years experience as Directors and 246 years total in the EH Profession, we take strong exception with this proposed legislation for the following reasons:

- The short timeframe that this latest proposed legislation is providing local public health to develop a response is unreasonable and shows little reverence for local health departments in Michigan. This legislation has been in development for months with very little input from public health professionals, and now it is being forced through the approval process without adequate time for us to develop a thorough review and response by local public health stakeholders, who are, along with wastewater contractors, the front-line practitioners in this matter.
- Decades of local public health control of this program is being discredited by a few naive groups and individuals, many of whom have been falsely persuaded that Michigan is wading in a cesspool of wastewater based on one study that, to our knowledge, has never been peer reviewed, as all such scientific studies must be to provide scientific documentation that it is credible, accurate and follows sound scientific protocol. Furthermore, it has been well documented that the study has significant fallacies with its methodology and resulting outcomes and conclusions.
- For years, we have heard that Michigan is the "only state without a statewide code." This is an utterly hollow statement, devoid of any valid meaning. Michigan is unique in that we have more area wide specific codes that address the unique geologic and soil conditions experience throughout our state. Has anyone ever performed a study in other states to see how effective (or ineffective) their codes are? Even if they were effective, does that mean a customized code based on area geology is not? Are these other states any better off than we are with similar topography and geology? The answer is, we don't know, and it would be very difficult at best to compare.
- Health professionals working at the local level for decades have been quite cognizant of wastewater systems in their area of the state, and contrary to what is now being thought of their actions, they have not deliberately allowed wastewater to pollute our lakes, rivers, streams, or groundwater. If this were the case, where are all the resulting epidemics of illness? Stating that these well trained, degreed, and conscientious professionals were derelict in their duty is irresponsible and outright offensive, to say the least.
- The decentralized wastewater infrastructure in Michigan has served the state by providing onsite solutions to the needs of rural communities and has not resulted in widespread contamination of the environment, in contrast to the millions of gallons of

advocating for areas that need to improved standards, not to establish minimum criteria that could jeopardize existing codes and preempt existing regulations.

We do not, regardless of our profession, want our native state to be known as one that is contaminated with wastewater from septic systems, and as local environmental health professionals, feel this is not the case. If it were, we would be first in line to make significant changes with our current methodology.

In closing, we feel this entire process has been absent of strong involvement by local health departments and that politics should not supersede public health or environmental protection. We are prepared to work with the local public groups, Boards of Health and Commissioners, as well as media outlets and our area state legislatures to inform them of the significant drawbacks with this legislation and that it needs to be opposed in its entirety.

It was moved by Heeres, seconded by Smith that the Board approve a reclassification for the Juvenile Register position in the Family/Probate Court to Juvenile Register/Finance Officer and increase the annual line items for wages and benefits by \$330.00 for 2018 and \$1,560.00 for 2019. This would increase the wage per hour to the same pay scale as the Probate Register. Motion carried as follows: Yes – Heeres, Zelenak, Bargo, Boettcher, Smith, Ricksgers, LaVanway, Marcus; No – None; Absent – Kruger.

It was moved by Marcus, seconded by Ricksgers that the Board refer the proposed Antrim County Travel Policy – Draft two to replace #1992-9 to the Administration and County Services Committee and take action at the November 2018 Board meeting. Motion carried as follows: Yes – Heeres, Zelenak, Bargo, Boettcher, Smith, Ricksgers, LaVanway, Marcus; No – None; Absent – Kruger.

It was moved by Marcus, seconded by Heeres that the Board adopt the draft Antrim County Privacy Notice Policy which will replace the current Health Insurance Portability & Accountability Act (HIPAA) Policy approved by the Board of Commissioners on April 8, 2004. Motion carries as follows: Yes – Heeres, Zelenak, Bargo, Boettcher, Smith, Ricksgers, LaVanway, Marcus; No – None; Absent – Kruger.

It was moved by Marcus, seconded by Heeres that the Board authorize the Board Chairman to execute the Business Associate Agreement with Dewey Insurance Agency regarding the protected health information of Antrim County employees. Motion carries as follows: Yes – Heeres, Zelenak, Bargo, Boettcher, Smith, Ricksgers, LaVanway, Marcus; No – None; Absent – Kruger.

It was moved by Marcus, seconded by Smith that the Board authorize the Board Chairman to execute the Sublicense and Support Agreement with Blue Care Network of Michigan conditioned on the agreement of terms consistent with civil counsel's review. Motion carried as follows: Yes- Heeres, Boettcher, Smith, Ricksgers, Marcus; No – Zelenak, Bargo, LaVanway; Absent – Kruger.

It was moved by Marcus, seconded by Heeres to adjust the Board of Commissioner per diems to reflect: \$55.00 for meeting up to two (2) hours, \$75.00 for meetings up to four (4) hours, and \$100.00 for meetings exceeding four (4) hours to be implemented January 1, 2019, and to amend the County Per Diem Policy accordingly. Motion carried as follows: Yes – Heeres, Bargo, Smith, Ricksgers, Marcus; No – Zelenak, Boettcher, LaVanway; Absent – Kruger.

Resolution #24-2018 By Christian Marcus, seconded by David Heeres

OPPOSING HOUSE BILL 5752 & 5753

WHEREAS, House Bills 5752 and 5753 would add Part 128 to the Public Health code and establish state and local standards for onsite wastewater treatment systems which would require the Michigan Department of Environmental Quality to develop a statewide code to govern the installation, operation, maintenance, and inspection of septic systems;

WHEREAS, the Amendatory Act restricts and removes local controls and changes existing regulations and guidelines that have been effectively enforced by counties and health departments across the State of Michigan; and

WHEREAS, the Amendatory Act would add additional mandates that would increase the amount of personnel time and expenses that health departments across the State would incur under the new Act without adequate funding from the state; and

Resolution 24-2018 continued.

WHEREAS, the Amendatory Act would gut existing regulations and grant the Michigan Department of Environmental Quality authority to approve local sanitary codes which, in effect, eliminates local control and undermines the duties of local health departments to implement and enforce laws; and

WHEREAS, the Michigan Department of Environmental Quality lacks the necessary budget and staffing levels to meet the mandates of this Amendatory Act which will place additional financial burden on local authorities; and

WHEREAS, the creation of the State Technical Advisory Committee under the Act would take away and replace local control of the design, permitting, inspection and management of onsite wastewater treatment facilities, and limit input into the rulemaking process to four local health department representatives; and

WHEREAS, the Amendatory Act fails to address funding for distressed homeowners and vacated properties with onsite wastewater treatment systems; and

WHEREAS, the Amendatory Act eliminates the rights of local jurisdictions to have a real estate transfer evaluation program. This eliminates the ability to inspect systems for proper functioning at a time when buyers/sellers are receptive to inspections of their property and better able to negotiate the cost of repair. The Act would rip away the authority from local units of government in Antrim County that currently have such an ordinance; and

WHEREAS, the Board of Commissioners supports the Health Department of Northwest Michigan and their developed local codes to address the unique geological conditions of the area and community needs.

THEREFORE BE IT RESOLVED, that the Antrim County Board of Commissioners opposes HB 5752 and HB 5753 and requests State Legislators to oppose the legislation.

Yes -- David Heeres, Melissa Zelenak, Karen Bargy, Ed Boettcher, Bryan Smith, Brenda Ricksgers, Dawn LaVanway, Christian Marcus;

No -- None

Absent -- Scott Kruger.

RESOLUTION #24-2018 DECLARED ADOPTED.

Liaison Reports -- Commissioner Ricksgers -- Antrim Fair Board
Commissioner Bargy -- Joint District Judicial Commission and Northwest Michigan Community Health Department
Commissioner LaVanway -- NLEA: Antrim Pitch Night
Commissioner Zelenak -- Emergency Protocol
Commissioner Boettcher -- Networks Northwest



November 30, 2018

Tom Frazier
Legislative Liaison
Michigan Townships Association
512 Westshire Dr.
Lansing, Michigan 48917

RE: HB5752

Dear Mr. Frazier,

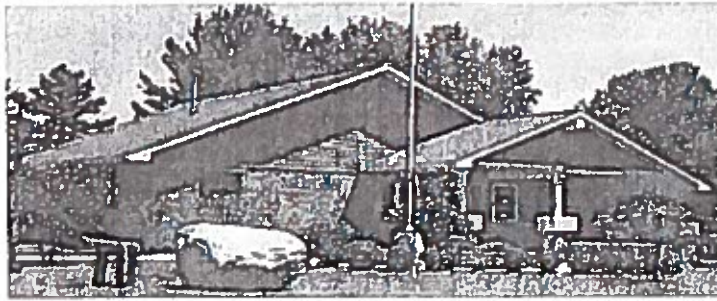
As you are aware, Milton Township is nearly surrounded by Lake Michigan, Torch Lake, Torch River, Lake Skegemog and Elk Lake. The protection of water quality and the health of our residents are among our highest priorities. To this end, we enacted our Septic Inspection and Property Transfer Ordinance on October 8, 2012.

This has been a very successful program that we implemented with the full partnership of the Health Department of Northwest Michigan. We have identified failed and failing onsite wastewater treatment systems and drinking water systems. The program has been well received by those purchasing homes because they are assured that systems are functioning properly or that they may have to expand systems if dwellings are planned to be enlarged. From the onset we had the cooperation of the real estate community and Ordinance provisions have been conducted smoothly and without complaints for over six years.

If enacted, the provisions of HB5752 Sec.12815 (2) will not allow a local government unit to enforce a point of sale ordinance related to onsite wastewater treatment systems. Further Sec. 12816 preempts local government units from enacting **any** provisions for the inspection of onsite wastewater systems.

HB5752 does allow local health departments to require point of sale inspections, BUT MAY NOT restrict or condition the sale. This in effect makes a requirement with "no teeth" for enforcement. Further it is not clear that health departments have the authority and/or administrative structure to require such inspection programs. District health departments are unlikely to consider implementing multicounty programs.

Milton Township
P.O. Box 309 Kewadin, MI 49648



Earlier versions of this Bill actually proposed provisions for a new Statewide system for routine evaluations of onsite wastewater systems. But they have been stripped from the current HB5752, leaving the issues of inspections/evaluations as status quo, and thus inadequate.

In summary, HB5752 prohibits townships from enacting any oversight of the inspection and evaluation of onsite wastewater systems. This infringes on the responsibilities of townships to adequately serve our citizens in protecting water quality and human health.

Respectfully,

Lon Bargy
Supervisor
Milton Township

Elizabeth Atkinson
Treasurer
Milton Township

Copy to:
Scott Kendzierski
Director, Environmental Health
Health Department of Northwest Michigan

Milton Township
P.O. Box 309 Kewadin, MI 49648